

AMENDED IN SENATE APRIL 22, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 998

Introduced by Senator Knight

February 13, 2014

An act to add Article 8 (commencing with Section 12099.8) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, to amend Section 510 of, and to add Section 511.5 to, the Labor Code, to add Sections 21080.38 and 21168.6.8 to the Public Resources Code, to amend Sections 17059.2 and 23689 of, and to add Sections 17053.35, 17053.36, 23635, and 23636 to, the Revenue and Taxation Code, and to add Section 10215.2 to the Unemployment Insurance Code, relating to aerospace: *Sections 17053.35 and 23635 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 998, as amended, Knight. ~~California Aerospace Innovation Hub Act of 2014.~~ *Income taxes: credits: new aerospace projects.*

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would, for taxable years beginning on or after January 1, 2016, allow a credit against those taxes to a qualified taxpayer in an amount equal to ____% of generated tax revenues in the taxable year from a new aerospace project. This bill would require the Franchise Tax Board, and authorize the State Board of Equalization, to prescribe specified rules, guidelines, or procedures regarding the determination of generated tax revenues.

This bill would take effect immediately as a tax levy.

~~(1) Existing law provides various incentives for industries such as the aerospace industry to locate and invest in this state, such as a program that allows local governments to establish a capital investment incentive program to pay a capital investment incentive amount to the proponents of a qualified manufacturing facility in the aerospace business, and a sales and use tax exemption for the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a person engaged in aerospace products and parts manufacturing for use primarily in manufacturing, processing, refining, fabricating, or recycling of property. Existing law also creates the California Innovation Hub Program within the Governor's Office of Business and Economic Development and requires the office to designate innovation hubs and to oversee, coordinate, and provide assistance to each innovation hub.~~

~~The bill would require the Governor's Office of Business and Economic Development to design and implement Aerospace Innovation Hubs, as specified, based on existing geographically based clusters of facilities of aerospace manufacturers and related businesses.~~

~~(2) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.~~

~~The bill, for taxable years beginning on or after January 1, 2015, and before January 1, 2025, would allow a credit against these taxes to an aerospace manufacturer or related business operating within an Aerospace Innovation Hub equal 10% of the qualified cost, as defined, of qualified property, as defined, placed in service during the taxable year, as provided. This credit would be in lieu of a specified sales and use tax exemption.~~

~~The bill, for the same taxable years, would allow a credit against these taxes for each taxable year equal to 25% of the charges for electricity paid or incurred by an aerospace manufacturer or related business operating within an Aerospace Innovation Hub during the taxable year.~~

~~The Personal Income Tax Law and the Corporation Tax Law, for taxable years beginning before January 1, 2025, allow a credit against the taxes imposed by those laws for each taxable year in an amount as determined by the Governor's Office of Business and Economic Development, pursuant to a contractual agreement with the taxpayer, agreed upon by the California Competes Tax Credit Committee, and based on specified factors.~~

~~The bill would include among those factors whether the taxpayer is an aerospace manufacturer or related business operating within an Aerospace Innovation Hub.~~

~~(3) Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. Existing law authorizes the adoption by $\frac{2}{3}$ of employees in a work unit of alternative workweek schedules providing for workdays no longer than 10 hours within a 40-hour workweek. Under existing law, any person who violates the provisions regulating work hours is guilty of a misdemeanor.~~

~~The bill would allow an individual nonexempt employee of an aerospace manufacturer or related business operating within an Aerospace Innovation Hub to request an employee-selected flexible work schedule providing for workdays up to 10 hours per day within a 40-hour workweek, and would allow the employer to implement this schedule without the obligation to pay overtime compensation for those additional hours in a workday, except as specified. The bill would require the Division of Labor Standards Enforcement in the Department of Industrial Relations to enforce this provision and adopt regulations.~~

~~(4) Existing law specifies that moneys in the Employment Training Fund are to be expended only for particular purposes relating to employment training and related administrative costs. Existing law authorizes the Employment Training Panel to allocate money in the fund for particular purposes related to employment training.~~

~~The bill would allow the Employment Training Panel to expend moneys in the Employment Training Fund to reimburse an aerospace manufacturer or related business operating within an Aerospace Innovation Hub for its reasonable costs of workforce training upon appropriation by the Legislature.~~

~~(5) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.~~

CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA.

The bill would require the lead agency to undertake specified steps in the preparation of the EIR for certain aerospace projects, which would be designated by the Governor. The bill would require a public agency, in certifying the EIR and in granting approvals for those designated aerospace projects, to concurrently prepare the record of proceeding and to certify the record of proceeding within 5 days of the filing of a specified notice. The bill would require the Judicial Council, on or before July 1, 2015, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the EIR and in granting approval of those designated aerospace manufacturing projects that requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceeding. The bill would, for the calendar years from 2015 to 2020, inclusive, require the Governor to designate 4 aerospace projects each year meeting specified requirements for which the above provisions would apply.

The bill would exempt from the requirements of CEQA a project or an activity related to the retooling or alteration for manufacturing purposes of an existing aerospace manufacturing facility or aerospace-related facility in an Aerospace Innovation Hub within the facility's existing footprint.

Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

The bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 17053.35 is added to the Revenue and*
- 2 *Taxation Code, to read:*
- 3 *17053.35. (a) For taxable years beginning on or after January*
- 4 *1, 2016, there shall be allowed to a qualified taxpayer a credit*

1 against the “net tax,” as defined in Section 17039, an amount
2 equal to ____ percent (____%) of generated tax revenues in the
3 taxable year from a new aerospace project.

4 (b) For purposes of this section, all of the following shall apply:

5 (1) (A) “Generated tax revenues” means the amount equal to
6 sum of the following amounts:

7 (i) The difference between the “net tax,” as defined in Section
8 17039, of the qualified taxpayer in the taxable year and the
9 estimated “net tax” of the qualified taxpayer, if the new aerospace
10 project of the qualified taxpayer was not in this state, in the taxable
11 year. If the difference is zero or less than zero, then the amount
12 shall be zero.

13 (ii) The amount of ad valorem property tax attributable to any
14 increases in assessed valuation of real property due to the purchase
15 or new construction of real property by the qualified taxpayer that
16 is primarily used for the new aerospace project.

17 (B) If the amount of generated tax revenues determined in
18 subparagraph (A) exceeds one hundred million dollars
19 (\$100,000,000), the amount to be used for purposes of calculating
20 the amount of credit allowed under this section shall be one
21 hundred million dollars (\$100,000,000).

22 (2) “Manufacturing” means the activity of converting or
23 conditioning property by changing the form, composition, quality,
24 or character of the property for ultimate sale at retail or use in
25 the manufacturing of a product to be ultimately sold at retail.
26 Manufacturing includes any improvements to tangible personal
27 property that result in a greater service life or greater functionality
28 than that of the original property.

29 (3) “New aerospace project” means the manufacturing of
30 aircraft, aircraft engine, guided missiles, space vehicles, propulsion
31 units, or related parts by the qualified taxpayer, pursuant to a
32 contractual agreement between the qualified taxpayer and a
33 purchaser, that commences in this state on or after January 1,
34 2016, and has not commenced outside of this state prior to that
35 date.

36 (4) “New construction” has the same meaning as that term is
37 defined in Section 70.

38 (5) “Primarily” means more than 50 percent.

39 (6) “Qualified taxpayer” means a person who is primarily
40 engaged in those lines of business described in Code 3364 of the

1 *North American Industry Classification System (NAICS) published*
2 *by the United States Office of Management and Budget (OMB),*
3 *2012 edition.*

4 *(c) No credit shall be allowed under this section after the*
5 *conclusion or completion of the contractual agreement that is the*
6 *subject of the new aerospace project.*

7 *(d) In the case where the credit allowed by this section exceeds*
8 *the “net tax,” the excess may be carried over to reduce the “net*
9 *tax” in the following year, and succeeding nine years if necessary,*
10 *until the credit is exhausted.*

11 *(e) (1) The Franchise Tax Board shall prescribe rules,*
12 *guidelines, or procedures to be used by the qualified taxpayer to*
13 *determine its estimated “net tax” amount described in clause (i)*
14 *of subparagraph (A) of paragraph (1) of subdivision (b), and may*
15 *prescribe other rules, guidelines, or procedures necessary or*
16 *appropriate to carry out the purposes of this section, except as*
17 *provided in paragraph (2).*

18 *(2) The State Board of Equalization may prescribe rules,*
19 *guidelines, or procedure necessary or appropriate for the*
20 *determination of the amount of increased ad valorem property tax*
21 *described in clause (ii) of subparagraph (A) of paragraph (1) of*
22 *subdivision (b).*

23 *SEC. 2. Section 23635 is added to the Revenue and Taxation*
24 *Code, to read:*

25 *23635. (a) For taxable years beginning on or after January*
26 *1, 2016, there shall be allowed to a qualified taxpayer a credit*
27 *against the “tax,” as defined in Section 23036, an amount equal*
28 *to ____ percent (____%) of generated tax revenues in the taxable*
29 *year from a new aerospace project.*

30 *(b) For purposes of this section, all of the following shall apply:*

31 *(1) (A) “Generated tax revenues” means the amount equal to*
32 *sum of the following amounts:*

33 *(i) The difference between the “tax,” as defined in Section*
34 *23036, of the qualified taxpayer in the taxable year and the*
35 *estimated “tax” of the qualified taxpayer, if the new aerospace*
36 *project of the qualified taxpayer was not in this state, in the taxable*
37 *year. If the difference is zero or less than zero, then the amount*
38 *shall be zero.*

39 *(ii) The amount of ad valorem property tax attributable to any*
40 *increases in assessed valuation of real property due to the purchase*

1 *or new construction of real property by the qualified taxpayer that*
2 *is primarily used for the new aerospace project.*

3 *(B) If the amount of generated tax revenues determined in*
4 *subparagraph (A) exceeds one hundred million dollars*
5 *(\$100,000,000), the amount to be used for purposes of calculating*
6 *the amount of credit allowed under this section shall be one*
7 *hundred million dollars (\$100,000,000).*

8 *(2) “Manufacturing” means the activity of converting or*
9 *conditioning property by changing the form, composition, quality,*
10 *or character of the property for ultimate sale at retail or use in*
11 *the manufacturing of a product to be ultimately sold at retail.*
12 *Manufacturing includes any improvements to tangible personal*
13 *property that result in a greater service life or greater functionality*
14 *than that of the original property.*

15 *(3) “New aerospace project” means the manufacturing of*
16 *aircraft, aircraft engine, guided missiles, space vehicles, propulsion*
17 *units, or related parts by the qualified taxpayer, pursuant to a*
18 *contractual agreement between the qualified taxpayer and a*
19 *purchaser, that commences in this state on or after January 1,*
20 *2016, and has not commenced outside of this state prior to that*
21 *date.*

22 *(4) “New construction” has the same meaning as that term is*
23 *defined in Section 70.*

24 *(5) “Primarily” means more than 50 percent.*

25 *(6) “Qualified taxpayer” means a person who is primarily*
26 *engaged in those lines of business described in Code 3364 of the*
27 *North American Industry Classification System (NAICS) published*
28 *by the United States Office of Management and Budget (OMB),*
29 *2012 edition.*

30 *(c) No credit shall be allowed under this section after the*
31 *conclusion or completion of the contractual agreement that is the*
32 *subject of the new aerospace project.*

33 *(d) In the case where the credit allowed by this section exceeds*
34 *the “net tax,” the excess may be carried over to reduce the “net*
35 *tax” in the following year, and succeeding nine years if necessary,*
36 *until the credit is exhausted.*

37 *(e) (1) The Franchise Tax Board shall prescribe rules,*
38 *guidelines, or procedures to be used by the qualified taxpayer to*
39 *determine its estimated “net tax” amount described in clause (i)*
40 *of subparagraph (A) of paragraph (1) of subdivision (b), and may*

1 *prescribe other rules, guidelines, or procedures necessary or*
2 *appropriate to carry out the purposes of this section, except as*
3 *provided in paragraph (2).*

4 *(2) The State Board of Equalization may prescribe rules,*
5 *guidelines, or procedure necessary or appropriate for the*
6 *determination of the amount of increased ad valorem property tax*
7 *described in clause (ii) of subparagraph (A) of paragraph (1) of*
8 *subdivision (b).*

9 *SEC. 3. This act provides for a tax levy within the meaning of*
10 *Article IV of the Constitution and shall go into immediate effect.*

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13 **All matter omitted in this version of the bill**
14 **appears in the bill as amended in the**
15 **Senate, April 9, 2014. (JR11)**
16